In the High Court of Punjab and Haryana, Chandigarh.

CWP No. 1080 of 2006

Date of Decision: 9.11.2006

Surjit Kaur

....Petitioner

Versus

State of Punjab and others.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice S.D. Anand.

Present: Mr. A.K. Walia, Advocate
for the petitioner.

Mr. Ashok Aggarwal, Addl. A.G., Punjab and
Mr. B.S. Chahal, AAG, Punjab
for the respondents.

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J.S. Khehar, J. (Oral).

Through the instant writ petition, the petitioner claims family pension on account of the death of her son Harcharan Singh, in harness. In this behalf, it is pointed out, that the petitioner's son, while posted at Police Station, Boha, died in a road accident, during the course of official duty. Despite thereof, the petitioner was not paid any family pension, which prompted her to approach this Court by filing the instant writ petition.

Learned counsel for the respondents, while opposing the contention of the learned counsel for the petitioner, has placed reliance on

the decision rendered by the Apex Court in State of Punjab and another Vs. Devinder Kaur, (1999) 9 Supreme Court Cases 12, wherein the employee in question had died in harness on 5.11.1985. The mother of the said employee had claimed family pension under the Family Pension Scheme, 1964 (hereinafter referred to as the 1964 Scheme) in the same fashion as the petitioner has claimed in the instant writ petition. While rejecting the claim of the petitioner in the aforesaid case, the Supreme Court recorded a clear conclusion, that the parents were not included in the definition of the term "family" in the 1964 Scheme. It was also observed, that the parents were included in the definition of the term "family" in the earlier scheme of 1951, and also in the subsequent amendment to the Punjab Civil Service Rules, which came into force w.e.f. 1.1.1996. Since the death of the son of the petitioner occurred on 16.8.1990 when the definition of the term "family" did not include parents, it is submitted, that the claim of the petitioner is wholly misconceived in view of the decision rendered by the Apex Court in Devinder Kaur's case (supra).

Learned counsel for the petitioner, however, vehemently contends, that in Devinder Kaur's case (supra), the mother of the deceased government employee was allowed family pension on compassionate grounds, and as such, on the analogy of the aforesaid decision, family pension should also be granted to the petitioner.

In so far as, the legal position is concerned, we are of the view, that the decision rendered by the Apex Court in Devinder Kaur's case (supra) leaves no doubt, that the term "family" in the relevant rules did not include parents, at the time of death of the petitioner's son Harcharan Singh

in harness on 16.8.1990, and as such, the petitioner's claim for family pension, under the rules as they existed at the time of the death of the petitioner's son in harness, is clearly misconceived. It is not possible for us to accept the contention of the learned counsel for the petitioner, noticed in the foregoing paragraph, on account of the fact, that the direction issued by the Supreme Court in Devinder Kaur's case (supra), allowing family pension to the respondent therein, was in exercise of powers vested in the Supreme Court under Article 142 of the Constitution of India.

For the reasons recorded above, it is not possible for us to accept the claim of the petitioner for grant of family pension to her on compassionate grounds.

Dismissed.

(J.S. Khehar)
Judge.

(S.D. Anand)
Judge.

9.11.2006
sk.